

**In the United States Court of Federal Claims**  
**OFFICE OF SPECIAL MASTERS**  
**No. 19-1109V**  
**(not to be published)**

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STACY SMITH,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

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Filed: April 1, 2022

Ruling on Entitlement; Influenza (“flu”)  
Vaccine; Shoulder Injury Related to  
Vaccine Administration (SIRVA)

*David J. Carney*, Green & Schafle LLC, Philadelphia PA, for Petitioner.

*Austin J. Egan*, U.S. Department of Justice, Washington, DC, for Respondent.

**RULING ON ENTITLEMENT**<sup>1</sup>

On July 30, 2019, Stacy Smith (“Petitioner”) filed a petition, seeking compensation under the National Vaccine Injury Compensation Program (“the Vaccine Program”).<sup>2</sup> Pet., ECF No. 1. Petitioner alleged that she suffered a Shoulder Injury Related to Vaccine Administration (“SIRVA”) as a result of the influenza (“flu”) vaccination she received on October 2, 2018. Pet. at 1.

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<sup>1</sup> Although this Ruling has been formally designated “not to be published,” it will nevertheless be posted on the Court of Federal Claims’ website in accordance with the E-Government Act of 2002, 44 U.S.C. § 3501 (2012). **This means the Ruling will be available to anyone with access to the internet.** As provided by 42 U.S.C. § 300aa-12(d)(4)(B), however, the parties may object to the Ruling’s inclusion of certain kinds of confidential information. Specifically, under Vaccine Rule 18(b), each party has fourteen days within which to request redaction “of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). Otherwise, the Ruling in its present form will be available. *Id.*

<sup>2</sup> The Vaccine Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755 (codified as amended at 42 U.S.C. §§ 300aa-10–34 (2012)) (hereinafter “Vaccine Act” or “the Act”). All subsequent references to sections of the Vaccine Act shall be to the pertinent subparagraph of 42 U.S.C. § 300aa.

On February 22, 2022, I ruled that the onset of Petitioner's shoulder injury occurred within 48 hours of vaccination. ECF No. 39 at 8. On April 1, 2022, Respondent filed an amended Rule 4(c) Report. Amended Resp't's Rep., ECF No. 41.

In the Amended Rule 4(c) Report, Respondent stated that "he will not defend this case on other grounds during further proceedings before the Office of Special Masters," but reserved his right to appeal the factual finding. Amended Resp't's Rep. at 2. Respondent indicated that Petitioner "has otherwise satisfied the legal prerequisites for compensation under the Vaccine Act." *Id.* Respondent requested that I decide the issue of entitlement based on the existing record. *Id.*

**In view of Respondent's position and the evidence of record, I find that the Petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/ Katherine E. Oler**

Katherine E. Oler  
Special Master